

Agenda Changes to FMLA Required Posting Required Employer Notices Required Employee Notice Certification Forms Clarification and Authentication New Certification, Fitness for Duty, Light Duty, Compensatory Leave, and Overtime Military Family Leave Qualifying Exigency Leave Military Caregiver Leave

 $More information can be found at the DAS Benefits Web site - http://das.hre.iowa.gov/benfits.html \label{eq:base_equation}$

Questions

Background Information

Effective Dates

- Medical FMLA
 - August 5, 1993 Non-contract
 - February 5, 1994 Contract-covered
- Military Family Leave
 - January 28, 2008 Military Caregiver
 - January 16, 2009 Qualifying Exigency





Background Information

- Eligibility for FMLA
 - 12 months of employment with the state during the past seven years
 - 1,250 hours worked in the 12 months immediately preceding the date leave is to begin
- Maximum Length of Leave
 - Up to 12 weeks of medical and/or qualifying exigency FMLA leave in a fiscal year
 - Up to 26 weeks of military caregiver leave in a 12 month period
 - Continuous, intermittent or reduced schedule leave



More information can be found at the DAS Benefits Web site - http://das.hre.iowa.gov/benfits.html

Background Information

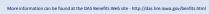
- Qualifying Reasons for FMLA Leave
 - Birth of a son or daughter and to care for the newborn child
 - Placement of a son or daughter for adoption or foster care
 - Care for the employee's spouse, son, daughter or parent with a serious health condition
 - Serious health condition that makes the employee unable to perform the functions of the employee's job
- Qualifying exigency for covered military member
 - Care for ill or injured covered servicemember





Changes to Definitions

- Continuing Treatment
 - Incapacity of more than 3 calendar days and treatment
 - Treatment
 - » Two or more times by health care provider within 30 days of the first day of incapacity
 - Treatment by health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of a health care provider
 - » First visit within 7 days of the first day of incapacity
- Chronic conditions
 - 2 or more visits to a health care provider per year





Required Posting

Employee Rights And Responsibilities Under The Family And Medical Leave Act

Provided to each employee when hired
Printed and posted for employees that do not have access to computers at work
Visible to all job applicants
Poster is available
DAS State Employment Web site
DAS Benefits Web site
Included with the January 16 online and paper pay warrant

More information can be found at the DAS Benefits Web site - http://das.hre.iowa.gov/benfits.html



Required Employee Notice Family and Medical Leave Application (CFN 552-0599) Employees must follow call-in procedures Calling in sick is not considered sufficient notice Leave may be denied if the employee fails to adequately explain the reason for leave Employee must inform you if the leave is for a reason which was previously certified More information can be found at the DAS Benefits Web site - http://das.hre.iowa.gov/benfits.html





Clarification and Authentication

- Employer may contact the health care provider to
 - Clarify information on medical certification form
 - Authenticate medical certification form
- Limited to contacting health care provider to:
 - understand handwriting on the certification
 - understand the meaning of a response
 - request verification that information on the certification form was completed and/or authorized by the health care provider who signed the document
- No additional medical information may be requested





Clarification and Authentication

- HIPAA requirements must be satisfied when employee health information is shared with an employer by a HIPAA-covered health care provider
- If employee does not provide a required HIPAA release, leave may be denied.
- If employee does not authorize employer to clarify the certification with the health care provider, and does not otherwise clarify the certification, FMLA leave may be denied
- Employee's responsibility to provide complete and sufficient certification and to clarify if necessary





Clarification and Authentication

- Employer contact must be made by
 - Health care professional
 - Human resources professional
 - Leave administrator
 - Management official

As determined by the employing department

 Under no circumstances may the employee's direct supervisor contact the employee's health care provider



More information can be found at the DAS Benefits Web site - http://das.hre.iowa.gov/benfits.htr

New Medical Certifications

- Leave approval is on fiscal year basis
- If the need for leave lasts beyond the fiscal year employee can be required to provide a new medical certification in each subsequent fiscal year
 - Second opinion can be requested on new certification
 EXAMPLE:

John provides a certification for intermittent leave on March 1st. The duration is "unknown"; leave is approved to the end of the fiscal year (June 30). John can be required to provide a new certification at the start of the new fiscal year on July 1 and a second opinion can be requested.

More information can be found at the DAS Benefits Web site - http://das.hre.iowa.gov/benfits.htm

Fitness for Duty

- Employer may require a fitness-for-duty certification
 - Continuous or intermittent leave
 - No more often than every 30 days for intermittent
- May require certification to specifically address the employee's ability to perform the essential functions of their position
- The employee must be provided with a list of essential functions of their job no later than when they are given the Designation Notice

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Light Duty

 Time that an employee spends working light duty does <u>not</u> count toward the 12 week FMLA entitlement during the leave year

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Compensatory Leave

- Employees must use
 - Accrued compensatory leave
 - Holiday compensatory time
 - Banked holidays

During periods of FMLA leave



Inability to Work Overtime

 Missed overtime must be counted against an employee's FMLA entitlement if the employee would have been required to work overtime but for their FMLA condition



More information can be found at the DAS Benefits Web site - http://das.hre.iowa.gov/benfits.htm



Military Family Leave

- Eligibility Requirement for Military Family Leave
 - 12 months of employment with the State in the past 7 years
 - 1,250 hours worked in the 12 months immediately preceding the date leave is to begin

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Son or daughter

- Son or daughter of a covered servicemember
 - Biological, adopted, foster or stepchild, legal ward, or child for whom the service member stood in loco parentis
 - Of any age
- Son or daughter on active duty or call to active duty
 - Employee's biological, adopted, foster or stepchild, legal ward, or child for whom the employee stood in loco parentis
 - Of any age
 - On active duty or call to active duty status in support of a contingency operation





Qualifying Exigency

- Short-notice deployment
- Military events and related activities
- Childcare and school activities not routine child care
- Financial and legal arrangements up to 90 days after service ends
- Counseling
- Rest and recuperation short-term only, up to 5 days
- Post-deployment activities up to 90 days after service ends
- Additional activities as agreed upon by employer and the employee

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Qualifying Exigency Leave

- Maximum Length of Leave
 - 12 weeks of qualifying exigency leave
- Covered Military Member
 - Employee's spouse, son, daughter or parent who is on active duty or call to active duty
- Active Duty or Call to Active Duty Status
 - A member of the National Guard or Reserves
 - Under a call or order to active duty in support of a contingency operation
 - Not regular armed forces
- No recertification

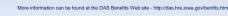




An employee must provide notice of the need for qualifying exigency leave as soon as practicable.	Request Qualifying Exigency Leave Certification of Qualifying Exigency for Military Family Leave (Form WH-384)	
Superintendent Control of Co	For Market And Control	notice of the need for qualifying exigency leave as

Military Caregiver Leave

- Covered Servicemember
 - Current member of Armed Forces (including National Guard or Reserve)
 - On temporary disability retired list
 - Serious injury or illness incurred in the line of duty on active duty
 - Undergoing medical treatment, recuperation, or therapy, or otherwise in outpatient status
 - Not former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list





Military Caregiver Leave

- Serious Injury or Illness
 - Injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the servicemember's office, grade, rank, or rating

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Eligible Employees

Employees eligible for military caregiver leave:

- Spouse
- Son
- Daughter
- Parent
- Next of kin

Of covered servicemember



More information can be found at the DAS Repetits Web site a http://das.hre.iowa.gov/henfits.htm

Next of Kin

- Nearest blood relative other than spouse, parent, son, or daughter, in order of priority:
 - Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions
 - Brothers and sisters
 - Grandparents
 - Aunts, uncles and first cousins
- Unless service member has designated another blood relative as next of kin

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Military Caregiver Leave

- Maximum Length of Leave
 - Up to 26 weeks of military caregiver leave in a 12 month period
 - 12 month period starts on the first day the employee takes military caregiver leave
 - Any combination of absences in the 12 month period, including medical FMLA, may not exceed 26 weeks
- Use of Leave "per member" and "per injury"
 - Use leave to care for the same family member with different illness or injury or
 - Use leave for a different family member
- No second or third opinion





Request Military Caregiver Leave Certification for Serious Injury or Illness of Covered Servicemember – for Military Family Leave (Form WH-385) *Must provide 30 days advance notice for planned medical treatment for a serious injury or illness of a covered servicemember. *When 30 days advance notice is not possible, the employee must provide notice as soon as practicable *When the need for leave is unforeseeable, an employee must comply with an employer's normal notice or call-in procedures, absent unusual circumstances.



Additional Resources

- PDS Training: http://das.hre.iowa.gov/LearnAtPDS
- Personnel Officer
- •Department of Labor web site:

http://www.dol.gov/esa/whd/fmla/finalrule.htm

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